

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

WOLVERINE WORLD WIDE, INC.,

Plaintiff,

v.

THE AMERICAN INSURANCE COMPANY, et al.,

Defendants.

****ORAL ARGUMENT
REQUESTED****

Case No. 1:19-cv-00010-JTN-SJB

Honorable Janet T. Neff
Mag. Judge Sally J. Berens
Special Master Paula Manderfield

**PLAINTIFF WOLVERINE WORLD WIDE, INC.'S MOTION TO COMPEL
PRODUCTION OF TRAVELERS' INSPECTION REPORTS**

Pursuant to Rules 26 of the Federal Rules of Civil Procedure, Plaintiff Wolverine World Wide, Inc. ("Wolverine") hereby moves the Court for an Order compelling Defendant Travelers Indemnity Company ("Travelers") to produce Industrial Hygiene Reports and Engineering Reports. In support thereof, Wolverine states as follows:

1. As set forth in greater detail in Wolverine's Brief in Support of this Motion (filed contemporaneously herewith), Defendant Travelers has failed to conduct a reasonable and diligent search for documents in response to Wolverine's Request For Production, No. 2, where Wolverine requested, "All Documents and Communications Related to any inspections, audits, site visits, and/or evaluations performed by You or on Your behalf with respect to any of Wolverine's sites or operations or locations, including, but not limited to those at issue in the Underlying Actions, at any time between 1958-2017."

2. In response to Wolverine's Request, Travelers produced only eight (8) Engineering Reports and four (4) Industrial Hygiene Analysis. In all actuality however, there should be over a hundred Reports for the Tannery location alone.

3. The evidentiary record in this case makes clear that Travelers conducted site visits and prepared a written Engineering Report on an annual, semi-annual, quarterly and sometimes on a bi-monthly basis depending on the specific facility, including at the Tannery and Sole Plant. Travelers further conducted industrial hygiene surveys and prepared Industrial Hygiene Reports for each facility on an "as-needed" basis. In Travelers' own words, Travelers acted as Wolverine's "eyes and ears," evaluating accident reports (at both the Tannery and Sole Plant) and inspecting these sites for pollution control. Travelers further provided Wolverine with recommendations on how to minimize risk of exposure.

4. The evidentiary record further makes clear that the Travelers' Engineering Division and/or Loss Control Department conducted these inspections/surveys and prepared the subject reports. Yet, and without any reasonable explanation, Travelers refuses to search these departments for responsive documents, contending instead that it has produced all documents located in its underwriting file. The Federal Rules requires that a party conduct a reasonable inquiry and exercise due diligence when responding to discovery requests. *Boyer v. Home Depot U.S.A., Inc.*, No. 08-13382, 2010 WL 1254847, at *3 (E.D. Mich. Mar. 26, 2010). This includes searching all likely repositories of records within a party's control.

5. Wolverine attempted to resolve this issue with Travelers in a meet and confer and was unsuccessful. Counsel for Travelers feigned ignorance with respect to whether an Engineering Division or Loss Control Department existed at Travelers and refused to inquire with his client regarding the same.

WHEREFORE, Wolverine respectfully requests that this Court compels Travelers to (a) conduct a reasonable inquiry and diligent search for all Industrial Hygiene Reports and Engineering Reports, including but not limited to a search for these documents in its Engineering division and/or Loss Control Department, (b) produce all Industrial Hygiene Reports and Engineering Reports responsive to Wolverine's Request for Production No. 2, and (c) grant any other relief this Court deems just and proper.

Dated: July 12, 2023

Respectfully submitted,

/s/ Kevin B. Dreher

Kevin B. Dreher

BARNES & THORNBURG LLP

One North Wacker Drive, Suite 4400

Chicago, IL 60606

Telephone: (312) 214-8308

kdreher@btlaw.com

*Counsel for Wolverine World Wide,
Inc., f/k/a Wolverine Shoe & Tanning
Corporation*

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

WOLVERINE WORLD WIDE, INC.,

Plaintiff,

v.

Case No. 1:19-cv-00010-JTN-SJB

THE AMERICAN INSURANCE COMPANY, et al.,

Defendants.

Honorable Janet T. Neff
Mag. Judge Sally J. Berens
Special Master Paula Manderfield

CERTIFICATE OF SERVICE

I hereby certify that on July 12, 2023 I electronically filed the foregoing document with the Clerk of Court using the ECF system, which provides notice to all attorneys of record.

s/ Kevin B. Dreher
Kevin B. Dreher